

## **REMARKS**

The Advisory Action mailed on July 12, 2010 indicated that the request for reconsideration filed on June 25, 2010 did not place the application in condition for allowance because the newly added claims allegedly raised new issues requiring further consideration and search. In a subsequent phone Interview, the Examiner noted that new subject matter was incorporated by at least the new apparatus Claims 70-73. However, the new apparatus Claims 70-73 merely incorporate subject matter recited in the original claims that has been searched and considered and that were indicated as being allowable.

In particular, Claim 70 incorporates the subject matter of allowed method Claim 69 (lesser result) into an apparatus claim that recites limitations of previously pending apparatus Claim 60. Similarly, Claim 71 incorporates the subject matter of allowed Claim 68 (greater result) into an apparatus claim that recites limitations of previously pending apparatus Claim 60. Thus, the apparatus has been previously searched and considered as have all of the limitations recited in these new claims. Apparatus Claim 73 similarly reflects the limitations of method Claim 72. Claim 72 incorporates limitations of method Claims 47-48 and 58, all of which have been previously searched and considered. No new matter has been added, nor have any additional limitations from the disclosure been added into the claims. The new apparatus claims only contain subject matter presented in the claims previously pending before the Examiner.

Clearly, the Examiner would have been aware of whether each limitation of the new apparatus claims are known in the art based on the analysis of these same limitations in previously presented claims and in view of Applicants' arguments. Therefore, the grounds for denying allowance are inappropriate and unfairly impose additional costs on Applicants by requiring that a Request for Continued Examination (RCE) or Appeal be filed.

Response to Advisory Action of July 12, 2010

Atty. Docket No. FAK-101.DCC

WARD *et al.*

In light of the foregoing, it is respectfully submitted that the application is now in condition for allowance. It is further respectfully requested that the rejections be withdrawn and the application passed to issue.

Respectfully submitted,  
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/Roger C. Hahn/

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